

Rule 13, Ariz. R. Crim. P.

INDICTMENT AND INFORMATION: Rule 13, Ariz. R. Crim. P. – requirements for charging document.....Revised 11/2009

The Arizona Rules of Criminal Procedure concerning charging “seek to give substance to the constitutional guarantees that an accused stand trial with clear notice of the crime with which he is charged.” *State v. Martin*, 139 Ariz. 466, 471, 679 P.2d 489, 494 (1984). A charging document “is legally sufficient if it informs the defendant of the essential elements of the charges; is sufficiently definite so that the defendant can prepare to meet the charges; and protects the defendant from subsequent prosecution for the same offense.” *State v. Rickard-Hughes*, 182 Ariz. 273, 275, 895 P.2d 1036, 1038 (App. 1995). Rule 13.2, Ariz. R. Crim. P., requires an indictment or information to be “a plain, concise statement of the facts sufficiently definite to inform the defendant of the offense charged.” *State v. Johnson*, 198 Ariz. 245, 247, ¶ 58, 8 P.3d 1159, 1161 (App. 2000).

The charging document must include “the official or customary citation of the statute, rule, regulation or other provision of law which the defendant is alleged to have violated.” Rule 13.2(b), Ariz. R. Crim. P. The purpose of this requirement is to set forth the offense charged in a manner that allows the accused to know what charge is intended so that he can be prepared to defend against the charge. This is not an absolute requirement, however. “The general rule is that error in the citation of a statute does not invalidate an indictment unless the error misleads the defendant to his prejudice.” *State v. Dungan*, 149 Ariz. 357, 361, 718 P.2d 1010, 1014 (App. 1986). In *Dungan*, the defendant was charged with possession of dangerous drugs for sale, but the indictment

mistakenly cited a statute number that had not yet become effective when the defendant committed his crime. Although the defendant was indicted under the wrong statute, the Court of Appeals found in *Dungan* that the miscitation in the indictment was merely a technical error that did not surprise, confuse, or prejudice his defense. The Court noted that the defendant and defense counsel clearly understood the charge and that the defense was vigorous and well-directed. The Court also cited Article 6, § 27 of the Arizona Constitution, which states that “no cause shall be reversed for technical error in pleadings or proceedings when upon the whole case it shall appear substantial justice has been done.” *Id.* at 361, 718 P.2d at 1014. Accordingly, the Court amended the indictment to cite the appropriate statute number. *Id.* at 362, 718 P.2d at 1015.